

**Subject:** Re: Re PSI KYW912 (alleged Boston station). Re MCLM WRV374 (alleged rights, Boston area)  
**Date:** Wednesday, October 10, 2012 8:54:58 AM PT  
**From:** Warren Havens <warren.havens@sbcglobal.net>  
**To:** Richard Arsenault <Richard.Arsenault@fcc.gov>  
**CC:** PStangas@njtransit.com <PStangas@njtransit.com>, Jimmy Stobaugh <jstobaugh@telesaurus.com>

Mr. Arsenault, Thank you.

Jimmy, Please file in 11-79 the below and its attachments (original email has the attachments of course).

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**From:** Richard Arsenault <Richard.Arsenault@fcc.gov>  
**To:** Warren Havens <warren.havens@sbcglobal.net>  
**Cc:** "PStangas@njtransit.com" <PStangas@njtransit.com>; Jimmy Stobaugh <jstobaugh@telesaurus.com>  
**Sent:** Wednesday, October 10, 2012 8:45 AM  
**Subject:** RE: Re PSI KYW912 (alleged Boston station). Re MCLM WRV374 (alleged rights, Boston area)

Receipt confirmed Mr. Havens.

Kindly file the below email and related attachments in 11-79.

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From: Warren Havens [[warren.havens@sbcglobal.net](mailto:warren.havens@sbcglobal.net)]  
Sent: Wednesday, October 10, 2012 11:25 AM  
To: Richard Arsenault  
Cc: [PStangas@njtransit.com](mailto:PStangas@njtransit.com); Jimmy Stobaugh  
Subject: Fw: Re PSI KYW912 (alleged Boston station). Re MCLM WRV374 (alleged rights, Boston area)

Jimmy:

Please see below: Mail a hard copy of this email to Mr. Stangas at NJT using address on the attached. Also include a copy of the FCC Section 308 letter of inquiry/ investigation re WQA216 (he can review the related documents under this call sign, if he chooses to).

Mr. Arsenault,

Greeting again. This email in not confidential. Please confirm receipt of this.

I do not mean this to be a "presentation," but to provide facts.

If you think my office should file the below and attachments, or any of those, in 11-79, let us know and we will do that.

If you have any questions for us related to these matters, please let us know.

(1) Boston MBTA in 11-79.

Since MBTA (Mass DOT) passenger railroad for Boston metro wrote to FCC in docket 11-79,\* I am sending you the below email, in case it is of relevant to 11-79 interests of the FCC.

\* I refer to the MBTA letter dated June 13, 2011. A copy is item "6" listed in and attached to our Oct 6 email to Mr. Stone below),

(2) NJ Transit in 11-79.

There is a similar development, as to the one reflected below, re AMTS incumbent spectrum in Boston metro, regarding WQA216 in NYC metro (B-block AMTS incumbent alleged station). Mr. Scot Stone has a Section 308 inquiry open on that, and the licensee responded early last week. A copy of the FCC Sec. 308 letter is attached.

We include NJT on this email.\*\* Mr. Paul Stangas of NJT submitted to you a letter, for 11-79 purposes, that involved, among other things, their interest in AMTS spectrum this past July. A copy is attached. This stated the following:

"...each claiming that the other has violated FCC rules and should have their licenses revoked. A recent FCC action against Skybridge shows that the FCC may not be accepting the waiver of construction."

However, there is no challenge (and was none at the time) before the FCC seeking to revoke any AMTS license of companies I manage anywhere, nor is there any "Skybridge...waiver of construction" involved in any of our AMTS licenses. And we told NJT that our 220 MHz licenses were NOT usable in NJT area.

As to the cause of the inaccurate statement, I do not address that here. (I am not making a "presentation.")

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\*\* I am not sure this email will work, but I am including here the email I found for Mr. Stangas at NJT. My office will mail a hard copy of this to him at NJT also.

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As to both 1 and 2 above:

In my companies' experience and in my view, generally the passenger railroads have obtained certain inaccurate information as to AMTS: the status of licensing, certain rules or asserted rules, proceedings affecting site-based AMTS licenses and alleged stations, etc. We direct them to actual rules, related Orders, and to look for themselves at pleadings, facts and law, etc. Over time, there appear to be improvement in sound information.

They appear to have accepted representations and suggestions of the site-based licensees (I do not characterize those here). This is reflected in their filings in 11-79. We direct them to actual rules, related Orders, and to look for themselves at pleadings, facts and law, etc. Over time, there appear to be improvement in sound information.

In sum: I point here to certain asserted facts, and why some are shown as inaccurate in FCC rules, orders and other records. I further point to developments by and before the FCC Wireless Bureau as to site-based AMTS spectrum in Boston and NYC metro areas.

I leave it to you as to the relevance of this information to 11-79. This is not a request for action or relief.

By this email we (my companies and I) do not waive or modify any related past position we have stated before the FCC or other parties.

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We have a case pending in US District Court NJ, shown on PACER, Havens, Skybridge, Environmental, Intelligent... et al. v. Mobex, MCLM, Paging Systems Inc. et al. It involves these matters in terms of US Antitrust law.

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Respectfully,

Warren Havens

----- Forwarded Message -----

From: Jimmy Stobaugh <[jstobaugh@telesaurus.com](mailto:jstobaugh@telesaurus.com)>

To: "[gchertock@ltk.com](mailto:gchertock@ltk.com)" <[gchertock@ltk.com](mailto:gchertock@ltk.com)>; "[SXJones@MBTA.com](mailto: SXJones@MBTA.com)" <[SXJones@MBTA.com](mailto: SXJones@MBTA.com)>

Cc: Warren Havens <[warren.havens@sbcglobal.net](mailto:warren.havens@sbcglobal.net)>

Sent: Tuesday, October 9, 2012 2:24 PM

Subject: Re: Re PSI KYW912 (alleged Boston station). Re MCLM WRV374 (alleged rights, Boston area)

Mr. Jones and Mr. Chertock,

Attached is a Section 1.41 Request we filed with the FCC. Pages 4-8 of the attached pdf contain the letters from the Boston building manager and site manager saying that PSI never constructed its licensed station on the building at One Boston Place.

Sincerely,

Jimmy Stobaugh

From: Warren Havens <[warren.havens@sbcglobal.net](mailto:warren.havens@sbcglobal.net)<mailto:[warren.havens@sbcglobal.net](mailto:warren.havens@sbcglobal.net)>>

Reply-To: Warren Havens <[warren.havens@sbcglobal.net](mailto:warren.havens@sbcglobal.net)<mailto:[warren.havens@sbcglobal.net](mailto:warren.havens@sbcglobal.net)>>

Date: Tuesday, October 9, 2012 6:15 AM

To: "[gchertock@ltk.com](mailto:gchertock@ltk.com)"<mailto:[gchertock@ltk.com](mailto:gchertock@ltk.com)>"

<[gchertock@ltk.com](mailto:gchertock@ltk.com)<mailto:[gchertock@ltk.com](mailto:gchertock@ltk.com)>>

Cc: Jimmy <[jstobaugh@telesaurus.com](mailto:jstobaugh@telesaurus.com)<mailto:[jstobaugh@telesaurus.com](mailto:jstobaugh@telesaurus.com)>>

"[SXJones@MBTA.com](mailto: SXJones@MBTA.com)"<mailto:[SXJones@MBTA.com](mailto: SXJones@MBTA.com)>"

<[SXJones@MBTA.com](mailto: SXJones@MBTA.com)<mailto:[SXJones@MBTA.com](mailto: SXJones@MBTA.com)>>

Subject: Re: Re PSI KYW912 (alleged Boston station). Re MCLM WRV374 (alleged rights, Boston area)

Mr. Chertock,

In response to the below, I received an error message

<[steve.jones@mbta.com](mailto:steve.jones@mbta.com)<mailto:[steve.jones@mbta.com](mailto:steve.jones@mbta.com)>>:  
Remote host said: 550 Invalid recipient <[steve.jones@mbta.com](mailto:steve.jones@mbta.com)<mailto:[steve.jones@mbta.com](mailto:steve.jones@mbta.com)>>  
(#5.1.1) [RCPT\_TO]

Do you have the correct current email for Mr. Jones (if he is still the PTC project manager with MBTA)?

I had in my address book the other email for Mr. Jones used here, but don't know if that works.

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From: Warren Havens <[warren.havens@sbcglobal.net](mailto:warren.havens@sbcglobal.net)<mailto:[warren.havens@sbcglobal.net](mailto:warren.havens@sbcglobal.net)>>  
To: "[Steve.jones@mbta.com](mailto:Steve.jones@mbta.com)<mailto:[Steve.jones@mbta.com](mailto:Steve.jones@mbta.com)>"  
<[Steve.jones@mbta.com](mailto:Steve.jones@mbta.com)<mailto:[Steve.jones@mbta.com](mailto:Steve.jones@mbta.com)>>;  
"[gchertock@ltk.com](mailto:gchertock@ltk.com)<mailto:[gchertock@ltk.com](mailto:gchertock@ltk.com)>"  
<[gchertock@ltk.com](mailto:gchertock@ltk.com)<mailto:[gchertock@ltk.com](mailto:gchertock@ltk.com)>>  
Cc: Jimmy Stobaugh <[jstobaugh@telesaurus.com](mailto:jstobaugh@telesaurus.com)<mailto:[jstobaugh@telesaurus.com](mailto:jstobaugh@telesaurus.com)>>;  
"[SXJones@MBTA.com](mailto:SXJones@MBTA.com)<mailto:[SXJones@MBTA.com](mailto:SXJones@MBTA.com)>"  
<[SXJones@MBTA.com](mailto:SXJones@MBTA.com)<mailto:[SXJones@MBTA.com](mailto:SXJones@MBTA.com)>>  
Sent: Tuesday, October 9, 2012 6:12 AM  
Subject: Fw: Re PSI KYW912 (alleged Boston station). Re MCLM WRV374 (alleged rights, Boston area)

Jimmy: please to Steve and Guy the letters form the building site manager, and building owner, showing item 1 below. (If they would like any of the other attachments, please send those, or point them to these on ULS under the Call Sign KYW912.)

Mr Jones,  
and Mr. Chertock,

Hello again.

The below and the attachments to my three emails below to the FCC, show that:

1. The AMTS B-block, 217 - 217.5, with 219 - 219.5 MHz, is not encumbered by any AMTS station authority (license or license rights) in or near Boston. While decades ago the FCC issued a license for this to Paging Systems Inc. it was never constructed by the deadline, or even to this day.
2. The other AMTS block, the A-block, also has no station or station rights in Boston, contrary to the suggestion of your letter to the FCC, attached.
  - You appear in that letter convinced that it is MCLM, the license of the A-block along parts of the Atlantic coast, has rights to this block in and around Boston (and do not appear to accept the full-FCC-Commission findings in FCC 11-64, and other evidence on ULS under this license, WRV374): I think you and your consultant have not understood FCC rules, or reviewed the facts. I explained these years ago to you. In any case, it is before the FCC on the below (and in other legal proceedings also).

We expect the FCC to rule on item 1 first, and later item 2.

If MBTA has interest in AMTS in the Boston area, let me know at this time.  
Otherwise, we are now planning other uses, including with several major Northeast entities.

Regards,  
Warren Havens

----- Forwarded Message -----

From: Warren Havens <[warren.havens@sbcglobal.net](mailto:warren.havens@sbcglobal.net)<mailto:[warren.havens@sbcglobal.net](mailto:warren.havens@sbcglobal.net)>>>  
To: Scot Stone <[Scot.Stone@fcc.gov](mailto:Scot.Stone@fcc.gov)<mailto:[Scot.Stone@fcc.gov](mailto:Scot.Stone@fcc.gov)>>>  
Cc: audrey rasmussen <[arasmussen@hallestill.com](mailto:arasmussen@hallestill.com)<mailto:[arasmussen@hallestill.com](mailto:arasmussen@hallestill.com)>>>; David Hill <[DHill@HallEstill.com](mailto:DHill@HallEstill.com)<mailto:[DHill@HallEstill.com](mailto:DHill@HallEstill.com)>>>; Robert J. Keller <[rjk@telcomlaw.com](mailto:rjk@telcomlaw.com)<mailto:[rjk@telcomlaw.com](mailto:rjk@telcomlaw.com)>>>; Dennis Brown <[d.c.brown@att.net](mailto:d.c.brown@att.net)<mailto:[d.c.brown@att.net](mailto:d.c.brown@att.net)>>>; "[ddepriest@msmct.com](mailto:ddepriest@msmct.com)<mailto:[ddepriest@msmct.com](mailto:ddepriest@msmct.com)>>" <[ddepriest@msmct.com](mailto:ddepriest@msmct.com)<mailto:[ddepriest@msmct.com](mailto:ddepriest@msmct.com)>>>; Jimmy Stobaugh <[jstobaugh@telesaurus.com](mailto:jstobaugh@telesaurus.com)<mailto:[jstobaugh@telesaurus.com](mailto:jstobaugh@telesaurus.com)>>>  
Sent: Monday, October 8, 2012 10:58 PM  
Subject: Re: Re PSI KYW912 (alleged Boston station). Re MCLM WRV374 (alleged rights, Boston area)

Mr. Stone,

Please acknowledge receipt of this email.

We will file a copy of this email under the subject Call Signs and serve a hard copy.

My office received in the mail today, Monday October 8, a copy of the attached letter to you that was served "by hand" dated October 2, 2012 signed by A. Rasmussen and D. Hill, purported "counsel" to PSI. The letter is concerning the instant section 1.41 proceeding: the part of it dealing with KYW912.

Re Substance: The attached October 2 letter cites no facts or law in support of a finding other than that the subject station authorization, KYW912, was never constructed or operated, before, upon, or at any time after the construction deadline, and thus automatically terminated. The rules are clear on this, and as applied by Bureau previously, including as to PSI in the Order, DA 00-2737, Rel. Dec. 6, 2000 (emphasis added):

3. Discussion. We note that under Section 1.955(a)(2) of the Commission's Rules, authorizations automatically terminate, without specific Commission action, if the licensee fails to meet applicable construction or coverage requirements.<sup>9</sup> Consequently, based on the record before us, we conclude that the authorizations for these three AMTS stations automatically terminated on October 10, 2000, the date of the construction deadline for the subject stations, because PSI failed to construct the stations on or before that date. Therefore, we find that PSI, on October 17, 2000, requested an extension of the construction deadline for the three subject AMTS stations the authorizations for which were no longer in effect.

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9. 47 C.F.R. § 1.955(a)(2).

PSI did not appeal DA 00-2737 and it is a final Order. For the reasons quoted above, the subject Boston station authorization automatically terminated due to failure of timely construction (apart from the other reason indicated above "...or coverage..."). Also, as with the above, under "automatic termination without specific Commission action," no relief is possible after the automatic termination takes place: it is based on facts and the automatic application of law to the fact, "without specific Commission action," where after the automatic termination takes place, the terminated license is "no

longer in effect" (as quoted above) and cannot be a basis of further relief, including in this case a purported fill-in station or any related conversion of it. (We believe that assertion, in the attached, is a further frivolous position, also in violation of section 1.52.)

In this regard, see the Commission's MO&O, FCC 1-39, 25 FCC Rcd 3390, rel. March 16, 2010 (emphasis and item in bracket added):

... That Mobex operated a fill-in site at another location in Chicago, see Modification Order, 20 FCC Rcd at 17961 ¶ 5, does not satisfy the requirement that the licensed site remain in operation. Whether a facility is in operation is determined with respect to the licensed site; operation of fill-in sites does not render operative an inactive licensed transmitter [an auto terminated one, in this case]. See Revision of Part 22 and Part 90 of the Commission's Rules to Facilitate Future Development of Paging Systems, Memorandum Opinion and Order on Reconsideration and Third Report and Order, WT Docket No. 96-18, 14 FCC Rcd 10030, 10055 ¶ 35 (1999).

For the same reason, operation of a fill-in site (assuming there was one proved up) does no render the licensed transmitter station authorization reactivated after auto termination. There would be no end to mischief if that ploy or position were permitted, but also that is, in any case, simply contrary to the plain reading of and case law on "automatic termination without specific Commission action."

In the Communications Act as amended, Section 47 U.S.C § 309(j)(4)(B) provides that the Commission shall include performance requirements to ensure prompt delivery of services, to prevent stockpiling and warehousing of spectrum by licensees, and to promote investment and deployment of new technologies and services. That is fully at play in this case, under the evidence we submitted in the initial section 1.41 request and the supplement below. The evidence shows that PSI has unlawfully warehoused this spectrum for some decades, and after auction 57 has blocked use of the geographic spectrum including for new PTC technologies and systems of public passenger railroads (in the most used railroad corridor in the nation), and for the use by Northeast Utilities Service Company in nearby Southern New Hampshire for its new mobile and fixed radio systems (among other blocked uses).

The undersigned petitioners seek action by the Bureau, without involvement of supporters of PTC in Congress and other agencies, or a writ to a US Circuit Court. In such as clear case as this, of simply applying the law to uncontested evidence from the sole site authorities, those actions outside the FCC, while justified (given the long history involved of this station and other AMTS matters) should not be needed.

For reasons given, we submit that the subject PSI station authority has automatically terminated, and that should be promptly recognized and the Call Sign terminated, and all licensing actions taken by PSI under this Call Sign should be dismissed as moot.

In addition, the attached response lacks candor in not denying, but not directly admitting to, the veracity of the evidence we submitted directly from the building owner and antenna site manager. As our petition alleges below, the subject actions of PSI counsel, Mr. Hill and Ms. Rasmussen, are sanctionable under Section 1.52. However, that is not the immediate or primary relief we seek.

Re Procedure (secondary): This proceeding was accepted by the FCC, and responded to thus far, by use of email. This October 2 email, deliver to you "by hand" was not sent to the Petitioners, to me, by email. In addition, there is no certificate of service with this hard-copy letter which would have been

required had hard copy been the only means of service. (In addition, the hard copy was not delivered by the US Postal Service by the third day after the date of the letter. Our office received it only today, which means it was delivered Saturday, not the third day, Friday.) Thus, this was an impermissible ex parte presentation due to failure to serve the presentation by email, or by requirements if only a hard copy was permitted (which we dispute).

In this and other matters, PSI counsel employs prejudicial procedure to further delay and obscure the simple substance, where expedited action for good cause apparent both under 47 U.S.C § 309(j)(4) (B) and petitioners' specific showings.

Respectfully,  
Warren Havens  
For petitioners listed below

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From: Warren Havens <[warren.havens@sbcglobal.net](mailto:warren.havens@sbcglobal.net)<mailto:[warren.havens@sbcglobal.net](mailto:warren.havens@sbcglobal.net)>>  
To: Scot Stone <[Scot.Stone@fcc.gov](mailto:Scot.Stone@fcc.gov)<mailto:[Scot.Stone@fcc.gov](mailto:Scot.Stone@fcc.gov)>>  
Cc: audrey rasmussen <[arasmussen@hallestill.com](mailto:arasmussen@hallestill.com)<mailto:[arasmussen@hallestill.com](mailto:arasmussen@hallestill.com)>>; David Hill <[DHill@HallEstill.com](mailto:DHill@HallEstill.com)<mailto:[DHill@HallEstill.com](mailto:DHill@HallEstill.com)>>; Robert J. Keller <[rjk@telcomlaw.com](mailto:rjk@telcomlaw.com)<mailto:[rjk@telcomlaw.com](mailto:rjk@telcomlaw.com)>>; Dennis Brown <[d.c.brown@att.net](mailto:d.c.brown@att.net)<mailto:[d.c.brown@att.net](mailto:d.c.brown@att.net)>>; "[ddepriest@msmct.com](mailto:ddepriest@msmct.com)<mailto:[ddepriest@msmct.com](mailto:ddepriest@msmct.com)>>" <[ddepriest@msmct.com](mailto:ddepriest@msmct.com)<mailto:[ddepriest@msmct.com](mailto:ddepriest@msmct.com)>>; Jimmy Stobaugh <[jstobaugh@telesaurus.com](mailto:jstobaugh@telesaurus.com)<mailto:[jstobaugh@telesaurus.com](mailto:jstobaugh@telesaurus.com)>>  
Sent: Sunday, October 7, 2012 11:58 PM  
Subject: Re: Re PSI KYW912 (alleged Boston station). Re MCLM WRV374 (alleged rights, Boston area)

Some of you have email systems that rejected the below due to file-size limits. The total size was not large vs. most current email accounts.

In any case, the attachments will be filed on ULS under the two Call Signs involved later today. A copy of the below will be included.

---

From: Warren Havens <[warren.havens@sbcglobal.net](mailto:warren.havens@sbcglobal.net)<mailto:[warren.havens@sbcglobal.net](mailto:warren.havens@sbcglobal.net)>>  
To: Scot Stone <[Scot.Stone@fcc.gov](mailto:Scot.Stone@fcc.gov)<mailto:[Scot.Stone@fcc.gov](mailto:Scot.Stone@fcc.gov)>>  
Cc: audrey rasmussen <[arasmussen@hallestill.com](mailto:arasmussen@hallestill.com)<mailto:[arasmussen@hallestill.com](mailto:arasmussen@hallestill.com)>>; David Hill <[DHill@HallEstill.com](mailto:DHill@HallEstill.com)<mailto:[DHill@HallEstill.com](mailto:DHill@HallEstill.com)>>; Robert J. Keller <[rjk@telcomlaw.com](mailto:rjk@telcomlaw.com)<mailto:[rjk@telcomlaw.com](mailto:rjk@telcomlaw.com)>>; Dennis Brown <[d.c.brown@att.net](mailto:d.c.brown@att.net)<mailto:[d.c.brown@att.net](mailto:d.c.brown@att.net)>>; "[ddepriest@msmct.com](mailto:ddepriest@msmct.com)<mailto:[ddepriest@msmct.com](mailto:ddepriest@msmct.com)>>" <[ddepriest@msmct.com](mailto:ddepriest@msmct.com)<mailto:[ddepriest@msmct.com](mailto:ddepriest@msmct.com)>>; Jimmy Stobaugh <[jstobaugh@telesaurus.com](mailto:jstobaugh@telesaurus.com)<mailto:[jstobaugh@telesaurus.com](mailto:jstobaugh@telesaurus.com)>>  
Sent: Sunday, October 7, 2012 10:59 PM  
Subject: Re: Re PSI KYW912 (alleged Boston station). Re MCLM WRV374 (alleged rights, Boston area)

Vincent Pace, Esq. (Inside counsel, Northeast Utilities Service Company ["NU"]):

Since I mention below NU, I am including you here. Let us know if you want to be removed from this matter, or refer this to your FCC-law attorneys.

Mr. Stone,

Please acknowledge receipt of this email.

This responds to your last email below.

Attached are the following PDF files:

(i) Re PSI KYW912 (Boston), MCLM WRV374 (Boston), Sec. 1.41, Supplement, List Documents.pdf

1. CBRichardEllis revised letter re One Boston Place 8-28-12.pdf
- 1a. FCC Ltr re PSI Form 499-A 8-24-09.pdf
- 1b. part 1 PSI Forms 499-A FCC FOIA Response.pdf
- 1b. part 2 PSI Forms 499-A FCC FOIA Response.pdf
2. Friedman PSI letter to NJ Court.pdf
3. Friedman Letter re docs PSI Touch Tel do not have 9-7-12.pdf
4. Document rqsts to PSI Touch Tel.pdf
5. PSI Petition to Deny NUSCO mod app based on KYW912 other.pdf
6. Mass DOT, MBTA to FCC, re asserted AMTS station rights in Boston.pdf
7. MCLM public website-Amtrak proposal, asserts Boston station, etc.pdf

Herein, "MCLM" means "MCLM DIP" after the time it filed its petition for alleged protection under Chapter 11 (but which evidence shows was not for Chapter 11 purposes, but to "stop the FCC" hearing and launder the licenses under the so-called "Second Thursday" doctrine-- as summarized by John Reardon, CEO and inside counsel for MCLM, in the digital voice recording attached below, and also here, for convenience).

After PSI responds-- (or if it does not in a period you provide)-- then we may have by then other responsive information. Likewise regarding MCLM

Also there are ongoing investigations that include the subject AMTS spectrum and locations of this email string.

However, the evidence we have presented supports the two requests in this Section 1.41 requests and a finding of automatic termination as to both PSI and MCLM AMTS authority in and around the Boston metro area.

We repeat that, for good cause shown, we seek expeditious action.

Below are a few additional notes on the attached items-- but their relevance is presented mostly in item 'i' and by margin notes and highlights we added to the other attachments.

Re (i) Read this first. It lists and discussed the other attachments.

Re 1. Revised letter from the authority over the subject site of the PSI alleged station PSI KYW912. Minor changes. It added "Maritime" in front of "Communications/Land Mobile LLC". No substantive changes.



Re 5. etc. PSI petition to deny (and related pleadings) to challenge Northeast Utilities Service Company ("NU") use of AMTS in New Hampshire in which PSI asserted a very large service area contour (and beyond that, its manufactured [not in FCC rules] interference contour) to attempt to deny, and later to seriously retrain, NU use of AMTS to serve electric utility operations in New Hampshire.

- (We mean by this one attachment to refer to the entire matter involving this, which was very limiting to NU as to time taken, cost, and restriction of its radio systems in New Hampshire to improve its public utility service. [Our comment here is based on the FCC and other public information.]
- This PSI assertion is fraudulent (and violates both FCC, and other law) if, as this Boston station site authority states, PSI did not ever construct any AMTS station at the licensed building site.
  - PSI legal counsel very aggressively pursued this.
    - See rule sec. 1.52 (and my comment on this in the initial sec. 1.41 request, below).
  - PSI counsel and PSI did not show to NU any actual station existence and operational contour. It would have been entirely simple to do so, had there been a real station, and had this attorney law been engaged in practice of law (which begins with facts, and attorneys properly ascertaining factual basis of their actions against others)
- This PSI assertion has had other real-world serious damages, e.g., with regard to the MBTA- see item 6.

(As we said below) "A copy of this email, put into PDF, including its attachments will be filed on ULS under the captioned call signs. We may place a copy in other FCC proceedings also, after consideration."

Respectfully,

Warren Havens  
for W. Havens and J. Stobaugh

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From: Warren Havens <[warren.havens@sbcglobal.net](mailto:warren.havens@sbcglobal.net)<mailto:[warren.havens@sbcglobal.net](mailto:warren.havens@sbcglobal.net)>>>  
To: 'Scot Stone' <[Scot.Stone@fcc.gov](mailto:Scot.Stone@fcc.gov)<mailto:[Scot.Stone@fcc.gov](mailto:Scot.Stone@fcc.gov)>>>;  
<[rjk@telcomlaw.com](mailto:rjk@telcomlaw.com)<mailto:[rjk@telcomlaw.com](mailto:rjk@telcomlaw.com)>>>"  
<[rjk@telcomlaw.com](mailto:rjk@telcomlaw.com)<mailto:[rjk@telcomlaw.com](mailto:rjk@telcomlaw.com)>>>  
Cc: Dennis C. Brown <[d.c.brown@att.net](mailto:d.c.brown@att.net)<mailto:[d.c.brown@att.net](mailto:d.c.brown@att.net)>>>;  
<[ddepriest@msmct.com](mailto:ddepriest@msmct.com)<mailto:[ddepriest@msmct.com](mailto:ddepriest@msmct.com)>>>"  
<[ddepriest@msmct.com](mailto:ddepriest@msmct.com)<mailto:[ddepriest@msmct.com](mailto:ddepriest@msmct.com)>>>; 'audrey rasmussen'  
<[arasmussen@hallestill.com](mailto:arasmussen@hallestill.com)<mailto:[arasmussen@hallestill.com](mailto:arasmussen@hallestill.com)>>>; 'David Hill'  
<[DHill@HallEstill.com](mailto:DHill@HallEstill.com)<mailto:[DHill@HallEstill.com](mailto:DHill@HallEstill.com)>>>; Jimmy Stobaugh  
<[jstobaugh@telesaurus.com](mailto:jstobaugh@telesaurus.com)<mailto:[jstobaugh@telesaurus.com](mailto:jstobaugh@telesaurus.com)>>>  
Sent: Friday, September 21, 2012 8:44 AM  
Subject: Re: Re PSI KYW912 (alleged Boston station). Re MCLM WRV374 (alleged rights, Boston area)

All: Mr. Stobaugh is included here. On any further email on this topic, he should be included, if you intend to communicate with me companies I represent on this topic.

Mr. Stone,

I realize you are busy, and do not want to divert time allocated for this matter. However, I submit the below for the record, to preserve my position (for the petitioning entities I serve).

For reasons I often state in FCC proceedings, my companies and I object to what we find, and explain, as prejudicial procedural issues pertaining to MCLM and others. I address some below since they are arising, again, regarding topics of this email string (WRV374 etc.) While the below is addressed to Mr. Keller, it also has objections lodged with the FCC in this matter. I object to all that I describe below as improper under applicable FCC and bankruptcy law. I believe, as I noted below, that it is a basis of reversing FCC actions, and intend to take that position where it is appropriate in a circumstance.

Mr Keller,

You address Mr. Stone as "Scot" indicating a familiar relation. I object to that (for the petitioners here). It should be construed against MCLM DIP.

Regarding "in the loop": MCLM DIP, including via Mr. Brown, engages in "loop" impermissible ex parte communications regarding FCC matters I handle, and that also should be construed and acted on against MCLM DIP. I object to that.

PSI has done that also, including on AMTS stations deficient of any evidence of their actual existence and operation. PSI and MCLM have many coordinated actions regarding AMTS matters. That is also objectionable.

Dennis Brown, in his filings with the FCC using the name MCLM after MCLM filed bankruptcy does not represent MCLM DIP since he states only that he represents MCLM, even after I have pointed out in responsive FCC filings that point (that he does not even state that he represents MCLM DIP: you received this from me, also). MCLM does not exist in law after MCLM filed bankruptcy.

Thus, all the filings by Mr. Brown for MCLM after MCLM filed bankruptcy and became MCLM DIP cannot be attributed to MCLM DIP, and cannot be considered.

I believe that FCC proceedings, actions and decisions based upon or that considered any filing by Mr. Brown, after MCLM filed bankruptcy, made in the name of MCLM is subject to reversal on this basis alone.

While you say below that Mr. Brown is not "primary," you are listed in ULS on the subject MCLM site-based license WRV374. There is no requirement that a party serve a non-primary representative of another party, including a second attorney not listed on ULS under the relevant license which has an attorney listed there as the contact representative.

Mr. Brown has does not have authority from the Bankruptcy Court to represent MCLM DIP: MCLM DIP bankruptcy counsel informed the court that counsel acting in the name of MCLM but not approved by the court, should not be accepted, which you must know since it involved the FCC licenses of the Debtor's estate (that was in relation to my companies case in USDC NJ against MCLM (now MCLM DIP), Mobex, PSI, Touchtel and affiliated entities and persons). Mr. Brown also has a conflict of interest in representing MCLM DIP, including since he represents Donald Depriest who, as MCLM DIP's CEO John Reardon--a professed attorney at law (your "inside counsel")--has stated (see - hear, attached),\* has "walked away" from MCLM DIP due to (or at least

due to) "wrongdoing" indicated by the FCC, causing MCLM DIP to file bankruptcy to "stop[ ] the hearing at the FCC" (the one you head up for MCLM DIP) for the "court to essentially tell the FCC to approve the transactions pending..." An attorney cannot represent adverse parties in this way. That appears to be one reason why MCLM DIP has not, after a very long time in bankruptcy, obtained approval of him to represent MCLM DIP.

In regards to this voice attached statement from the MCLM DIP CEO and inside counsel, do you take the position for MCLM DIP that MCLM DIP has also "stop[ped] ...at the FCC" (and "essentially tell the FCC...") as to the matter of the below emails? Or can MCLM only stop the Hearing under HDO FCC 11-64, docket 11-71?

I copy here Mr. Depriest, with his most recent (as known to me) ex parte communication to the FCC, with Mr. Brown, relating to WRV374, a topic of this email string.

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\* The attached voice file (Maritime VM message 4S776AXCX.WAV) is from the (non confidential) discovery evidence in the MCLM DIP bankruptcy case, US Bankruptcy Court, MS (the FCC- US is a party in this bankruptcy case, and has access). I understand that this was a statement made pursuant to a legal contract, and its representations, warranties, and covenants (FCC license spectrum purchase agreement between MCLM and Denton Co., Texas).

---

From: Bob Keller <[rjk@TelComLaw.com](mailto:rjk@TelComLaw.com)<mailto:[rjk@TelComLaw.com](mailto:rjk@TelComLaw.com)>>>  
To: 'Scot Stone' <[Scot.Stone@fcc.gov](mailto:Scot.Stone@fcc.gov)<mailto:[Scot.Stone@fcc.gov](mailto:Scot.Stone@fcc.gov)>>>  
Cc: 'audrey rasmussen' <[arasmussen@hallestill.com](mailto:arasmussen@hallestill.com)<mailto:[arasmussen@hallestill.com](mailto:arasmussen@hallestill.com)>>>; 'David Hill' <[DHill@HallEstill.com](mailto:DHill@HallEstill.com)<mailto:[DHill@HallEstill.com](mailto:DHill@HallEstill.com)>>>; Dennis C. Brown <[d.c.brown@att.net](mailto:d.c.brown@att.net)<mailto:[d.c.brown@att.net](mailto:d.c.brown@att.net)>>>; 'Warren Havens' <[warren.havens@sbcglobal.net](mailto:warren.havens@sbcglobal.net)<mailto:[warren.havens@sbcglobal.net](mailto:warren.havens@sbcglobal.net)>>>  
Sent: Friday, September 21, 2012 7:08 AM  
Subject: RE: Re PSI KYW912 (alleged Boston station). Re MCLM WRV374 (alleged rights, Boston area)

Scot,

FYI, while I do not mind being kept in the loop, Curt Brown is the primary FCC counsel for MCLM on non-hearing matters. Thanks.

--

Bob Keller <[rjk@telcomlaw.com](mailto:rjk@telcomlaw.com)<mailto:[rjk@telcomlaw.com](mailto:rjk@telcomlaw.com)>>>  
Law Offices of Robert J. Keller, P.C.  
P.O. Box 33428  
Washington, D.C. 20033-04238  
202.223.2100

---

From: Warren Havens [mailto:[warren.havens@sbcglobal.net](mailto:warren.havens@sbcglobal.net)]  
Sent: Friday, September 21, 2012 9:54 AM  
To: Scot Stone  
Cc: 'audrey rasmussen'; 'David Hill'; 'Robert J. Keller'  
Subject: Re: Re PSI KYW912 (alleged Boston station). Re MCLM WRV374 (alleged rights, Boston area)

Mr. Stone,

I will check with persons involved and get back to you on this.  
Thank you.

Telesaurus Holdings GB LLC | Intelligent Transportation & Monitoring Wireless LLC | Berkeley  
California | [www.scribd.com/warren\\_havens/shelf](http://www.scribd.com/warren_havens/shelf) | 510 841 2220 x 30 | 510 848 7797 -direct

---

From: Scot Stone <[Scot.Stone@fcc.gov](mailto:Scot.Stone@fcc.gov)<mailto:[Scot.Stone@fcc.gov](mailto:Scot.Stone@fcc.gov)>>  
To: 'Warren Havens' <[warren.havens@sbcglobal.net](mailto:warren.havens@sbcglobal.net)<mailto:[warren.havens@sbcglobal.net](mailto:warren.havens@sbcglobal.net)>>  
Cc: 'audrey rasmussen' <[arasmussen@hallestill.com](mailto:arasmussen@hallestill.com)<mailto:[arasmussen@hallestill.com](mailto:arasmussen@hallestill.com)>>; 'David Hill' <[DHill@HallEstill.com](mailto:DHill@HallEstill.com)<mailto:[DHill@HallEstill.com](mailto:DHill@HallEstill.com)>>; 'Robert J. Keller' <[rjk@telcomlaw.com](mailto:rjk@telcomlaw.com)<mailto:[rjk@telcomlaw.com](mailto:rjk@telcomlaw.com)>>  
Sent: Friday, September 21, 2012 6:10 AM  
Subject: RE: Re PSI KYW912 (alleged Boston station). Re MCLM WRV374 (alleged rights, Boston area)

Mr. Havens,  
You stated on September 6 that there may be additional related and similar evidence that you would provide. Let us know whether you intend to submit any additional evidence. We will consider this matter once you inform us that you have submitted all the evidence that you intend to submit.

Scot Stone  
Deputy Chief, Mobility Division  
Wireless Telecommunications Bureau

---

From: Scot Stone  
Sent: Friday, September 07, 2012 4:07 PM  
To: 'Warren Havens'  
Cc: 'audrey rasmussen'; 'David Hill'; 'Robert J. Keller'; Pamela Kane; Brian Carter  
Subject: RE: Re PSI KYW912 (alleged Boston station). Re MCLM WRV374 (alleged rights, Boston area)  
Received.

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From: Warren Havens [mailto:[warren.havens@sbcglobal.net](mailto:warren.havens@sbcglobal.net)]  
Sent: Thursday, September 06, 2012 11:57 PM  
To: Scot Stone  
Cc: audrey rasmussen; David Hill; Robert J. Keller; Pamela Kane; Brian Carter  
Subject: Re PSI KYW912 (alleged Boston station). Re MCLM WRV374 (alleged rights, Boston area)  
Mr. Scot Stone, FCC WTB.

Please acknowledge receipt.

This is a submission under rule section 1.41. We request prompt action.

Please see the attached to letters:  
OBP Building Manager Letter.pdf

These letters are self explanatory.

(I believe there may be additional related and similar evidence that may soon be provided to us, and if so, we intend to provide that to you.)

As to the contents of the two letters: applicable FCC rules are known, including regarding automatic termination for not constructing by the deadline therefor, and repeatedly submitting false and misleading information to the Commission.

Also, please compare the attached two letters with the statements in the 2004 construction "audit," copy attached: see last page as to KYW912, Boston.  
See also the statements in by PSI and Mobex on pre-auction procedures PN in Auction 57.

The audit responses by PSI certified that it constructed by the deadline this Boston station, where as the site authorities state that is false in the attached letters. As the attached shows, the false PSI certification was submitted with counsel, and counsel has a duty under section 1.52 to know ("to the best of his knowledge [and] information") that its filings are true.[\*] It was easy for PSI counsel to obtain, even without "best" efforts, this knowledge and information from the client, PSI: construction evidence is simple in content and simple to keep and transmit. Thus, it should be assumed that PSI counsel know PSI had no such proof, and that counsel violated this rule, and the related rule 1.27. This was a grave matter: whether licenses PSI previously asserted were in operation, and were renewed and certified as such, were actually constructed or not, due to the ramifications (loss of the licenses, sanctions for false certifications, disbarment, etc.). If this was not time for counsel to strictly adhere to the requirements of §1.52, and for the "get tough" policy to be applied, there never will be.

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[\*] Sec. 1.52 includes (emphasis added): "The signature or electronic reproduction thereof by an attorney constitutes a certificate by him that he has read the document; that to the best of his knowledge, information, and belief there is good ground to support it; and that it is not interposed for delay.... An attorney may be subjected to appropriate disciplinary action, pursuant to § 1<<http://www.hallikainen.org/FCC/FccRules/2010/1/24/section.pdf>>.24<<http://www.hallikainen.com/FccRules/2012/1/24/index.php>>, for a willful violation of this section...." The Commission "gets tough" on sanctionable attorney actions, e.g., FCC 96-42. This section is analogous to FRCP rule 11.

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At this time, the listed companies below my name below, each with interests in these matters (the two email subject matters), ask the FCC to review and promptly proceed with appropriate action.

We reserve the rights to later request specific action, and present additional facts and law.

Please keep us informed of actions undertaken and taken.

We have previously explained to you and the WTB how PSI and MCLM have blocked and continue to block our companies that hold AMTS geographic licenses, with false and unsupported claims to valid AMTS authorizations and stations, including as to attempts to provide spectrum throughout the Northeast Corridor to various public agency railroads, at their requests, for their PTC (Positive Train Control) needs, including in the subject Boston metro area. See also docket 11-79 and our companies filings therein. This is good cause to ask that you proceed promptly with appropriate actions, as indicated above.

A copy of this email, put into PDF, including its attachments will be filed on ULS under the captioned call signs.

We may place a copy in other FCC proceedings also, after consideration.

As shown herein, we have copied here counsel for PSI and MCLM.

A copy including attachments will be mailed by US mail to the counsel for PSI and MCLM, emailed here, at their addresses of record.

Since one subject here is MCLM assertions as to site based AMTS authority, which is "issue (g)" in the formal hearing on MCLM (and some affiliated entities) under the HDO FCC 11-64, we also copy here Ms. Kane and Mr. Carter. In this regard, as FCC records reflect, MCLM and PSI allege to have AMTS stations and operations that are collocated, combined, and/or coordinated in various areas and ways.

We do not submit hereby a informal complaint under Section 208 of the Communications Act, or any other complaint for damages, nor in relation to matters in this email do we waive any rights to seek damages under any means permissible under law, including under Sections 206 and 207 of the Communications Act.

Respectfully,

Warren Havens

Individually and as President, each company below

With Jimmy Stobaugh, GM of LLCs below

Skybridge Spectrum Foundation | V2G LLC | Environmental LLC | Verde Systems LLC |  
Telesaurus Holdings GB LLC | Intelligent Transportation & Monitoring Wireless LLC | 2509 Stuart  
Street, Berkeley California 94705 | [www.scribd.com/warren\\_havens/shelf](http://www.scribd.com/warren_havens/shelf) | 510 841 2220 x 30 | 510  
848 7797 -direct



**From:** Warren Havens <[warren.havens@sbcglobal.net](mailto:warren.havens@sbcglobal.net)>

**To:** Scot Stone <[Scot.Stone@fcc.gov](mailto:Scot.Stone@fcc.gov)>

**Cc:** audrey rasmussen <[arasmussen@hallestill.com](mailto:arasmussen@hallestill.com)>; David Hill <[DHill@HallEstill.com](mailto:DHill@HallEstill.com)>; Robert J. Keller <[rjk@telcomlaw.com](mailto:rjk@telcomlaw.com)>; Pamela Kane <[Pamela.Kane@fcc.gov](mailto:Pamela.Kane@fcc.gov)>; Brian Carter <[brian.carter@fcc.gov](mailto:brian.carter@fcc.gov)>

**Sent:** Thursday, September 6, 2012 8:57 PM

**Subject:** Re PSI KYW912 (alleged Boston station). Re MCLM WRV374 (alleged rights, Boston area)

**Mr. Scot Stone, FCC WTB.**

Please acknowledge receipt.

This is a submission under rule section 1.41. We request prompt action.

Please see the attached to letters:

OBP Building Manager Letter.pdf

OBP Manager AMTS letter.pdf

These letters are self explanatory.

(I believe there may be additional related and similar evidence that may soon be provided to us, and if so, we intend to provide that to you.)

As to the contents of the two letters: applicable FCC rules are known, including regarding automatic termination for not constructing by the deadline therefor, and repeatedly submitting false and misleading information to the Commission.

Also, please compare the attached two letters with the statements in the 2004 construction "audit," copy attached: see last page as to KYW912, Boston.

See also the statements in by PSI and Mobex on pre-auction procedures PN in Auction 57.

The audit responses by PSI certified that it constructed by the deadline this Boston station, where as the site authorities state that is false in the attached letters. As the attached shows, the false PSI certification was submitted with counsel, and counsel has a duty under section 1.52 to know ("to the best of his knowledge [and] information") that its filings are true.[\*] It was easy for PSI counsel to obtain, even without "best" efforts, this knowledge and information from the client, PSI: construction evidence is simple in content and simple to keep and transmit. Thus, it should be assumed that PSI counsel know PSI had no such proof, and that counsel violated this rule, and the related rule 1.27. This was a grave matter: whether licenses PSI previously asserted were in operation, and were renewed and certified as such, were actually constructed or not, due to the ramifications (loss of the licenses, sanctions for false certifications, disbarment, etc.). If this was not time for counsel to strictly adhere to the requirements of §1.52, and for the "get tough" policy to be applied, there never will be.

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[\*] Sec. 1.52 includes (emphasis added): "The signature or electronic reproduction thereof by an attorney constitutes a certificate by him that he has read the document; that to the best of his knowledge, information, and belief there is good ground to support it; and that it is not interposed for delay.... An attorney may be subjected to appropriate disciplinary action,



pursuant to § [1.24](#), for a willful violation of this section...." The Commission "gets tough" on sanctionable attorney actions, e.g., FCC 96-42. This section is analogous to FRCP rule 11.

----

At this time, the listed companies below my name below, each with interests in these matters (the two email subject matters), ask the FCC to review and promptly proceed with appropriate action.

We reserve the rights to later request specific action, and present additional facts and law.

Please keep us informed of actions undertaken and taken.

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A copy of this email, put into PDF, including its attachments will be filed on ULS under the captioned call signs.

We may place a copy in other FCC proceedings also, after consideration.

As shown herein, we have copied here counsel for PSI and MCLM.

A copy including attachments will be mailed by US mail to the counsel for PSI and MCLM, emailed here, at their addresses of record.

Since one subject here is MCLM assertions as to site based AMTS authority, which is "issue (g)" in the formal hearing on MCLM (and some affiliated entities) under the HDO FCC 11-64, we also copy here Ms. Kane and Mr. Carter. In this regard, as FCC records reflect, MCLM and PSI allege to have AMTS stations and operations that are collocated, combined, and/or coordinated in various areas and ways.

We do not submit hereby a informal complaint under Section 208 of the Communications Act, or any other complaint for damages, nor in relation to matters in this email do we waive any rights to seek damages under any means permissible under law, including under Sections 206 and 207 of the Communications Act.

Respectfully,

Warren Havens

Individually and as President, each company below

With Jimmy Stobaugh, GM of LLCs below

*Skybridge Spectrum Foundation* | V2G LLC | Environmental LLC | Verde Systems LLC | Telesaurus Holdings GB LLC | Intelligent Transportation & Monitoring Wireless LLC |

2509 Stuart Street, Berkeley California 94705 | [www.scribd.com/warren\\_havens/shelf](http://www.scribd.com/warren_havens/shelf) | 510 841  
2220 x 30 | 510 848 7797 -direct

Jason Richardson  
Operations Manager

T 617.570.6402  
F 617.570.6464  
jason.richardson@cbre-ne.com

8/28/2012

Mr. Warren Havens, President  
Environmental LLC &  
Intelligent Transportation & Monitoring Wireless, LLC  
2509 Stuart Street  
Berkeley, CA 94705

Re: Construction and Operation of AMTS Systems at One Boston Place, Boston, MA

Dear Mr. Havens,

I am sending this letter to you such that you may provide a copy of it to the Federal Communications Commission (FCC). This is to show that the building management company representing the building owner attests there are no 217/219 MHz Automated Maritime Telecommunications System (AMTS) licensed systems constructed and operating at the building and radio communication facility known as One Boston Place (OBP) in Boston, MA (FCC ASR 1280433).

We have intimate knowledge of all companies that currently are and have been communications tenants at OBP through records and knowledge of long-time employees.

We understand that the following companies, *Paging Systems, Inc. (PSI) and/or Touch Tel Corporation and Communications/Land Mobile, LLC and its predecessors Regionet Wireless License, LLC and Mobex Network Services, LLC and Mobex Communications, Inc. (or "Mobex")* (all these together called "MCLM") may allege to have constructed equipment facilities at OFC and operate as and/or operated as communications tenants.

Based on our knowledge and review of our company records for One Boston Place Washington Street, Boston, MA including the radio communication facility and antenna structure at this building (together, "This Building Site"), we can state the following:

1. There is currently no PSI Station constructed or operating at This Building Site. There has never been a PSI Station constructed or operating at This Building Site in the time frame of the owner's records dating back to 1970.
2. There is currently no MCLM Station constructed or operating at This Building Site. There has never been a MCLM Station constructed or operating at This Building Site in the time frame of the owner's records as stated above.

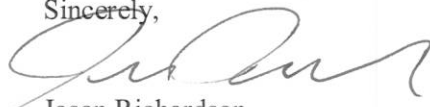
Jason Richardson  
Operations Manager

T 617.570.6402  
F 617.570.6464  
jason.richardson@cbre-ne.com

3. There are currently no 217/219 MHz stations or licensee constructed or operating at This Building Site. There has never been a 217/219 MHz station or license constructed or operating at This Building Site in the time frame of the owner's records as stated above.

The foregoing is accurate to the best of my knowledge.

Sincerely,



Jason Richardson  
Operations Manager

CC: Emily Batchelder  
General Manager  
&  
Peter Kovaleski

00000000000000000000000000000000

**CBRE**  
CB RICHARD ELLIS

Mr. Warren Hewens  
Environmental LLC  
+  
Intelligent Transportation  
and Monitoring Wireless LLC  
2509 Stuart St  
Berkeley, CA 94705

# COMMUNICATIONS MANAGEMENT, INC.

93 Delphi Road  
Stafford Springs, CT 06076  
860-684-1511

8/28/2012

Mr. Warren Havens, President  
Environmental LLC &  
Intelligent Transportation & Monitoring Wireless, LLC  
2509 Stuart Street  
Berkeley, CA 94705

Re: Construction and Operation of AMTS Systems at One Boston Place, Boston, MA

Dear Mr. Havens,

I am sending this letter to you such that you may provide a copy of it to the Federal Communications Commission (FCC). This is to show that the site manager attests there are no 217/219 MHz Automated Maritime Telecommunications System (AMTS) licensed systems constructed and operating at the building and radio communication facility known as One Boston Place (OBP), Boston, MA (FCC ASR number 1280433), including by the licensees and parties identified below as discussed recently with your office.

I am the facility site manager and owner of the site management company. We have managed this facility for the last 6 years and have intimate knowledge of all companies that have ever been communications tenants at OBP through long-term carefully kept records of the owner, personal knowledge and knowledge of long-term employees at OBP. The building chief engineer of 35 years at OBP who handled the communications tenants prior to official site management by our firm has complete knowledge of all previous tenants since building construction.

You described to me that your companies' listed above, which requested this letter, hold wide-area (multi-State) AMTS 217/219 MHz-spectrum wide-area FCC licenses from the FCC for providing service to the US Northeast, including Boston, Massachusetts (Call Signs: WQCP810 and WQGF310), but are blocked from using this spectrum in the Boston area by entities (listed below) who allege to the FCC to be operating radio base stations using local-area (single-site) AMTS FCC licenses for the same co-channel spectrum, at locations described below: You have provided the following information:

1. Licensee: Paging Systems, Inc.  
(Touch Tel Corporation as agent of Paging Systems Inc. and may acquire site leases, alleges to install station equipment, etc.) (together called "PSI")  
FCC Call Sign: KYW912. From this license --  
TX Frequencies: 217.000 - 217.500 MHz  
RX Frequencies: 219.000 - 219.500 MHz



Herein the above is referred to as the "PSI Station"

2. Licensee: Maritime Communications/Land Mobile, LLC and its predecessors Regionet Wireless License, LLC (or "Regionet") and Mobex Network Services, LLC and Mobex Communications, Inc. (or "Mobex") (all these together called "MCLM").

FCC Call Sign: WRV374. From this license --

TX Frequencies: 217.500 - 218.000 MHz

RX Frequencies: 219.500 - 220.000 MHz

Per FCC records, under Call Sign WRV374 or any other license, MCLM does not have a licensed station located in or near Boston, MA. Thus, no more details are provided.

Herein the above is referred to as the "MCLM Station"

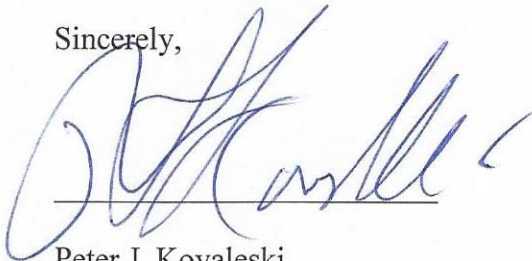
Based on my personal knowledge and review of our company records for OBP, Washington Street, Boston, MA including the radio communication facility and antenna structure at this building (together, "This Building Site"), I can assuredly state the following:

1. There is currently no PSI Station constructed or operating at This Building Site. There has never been a PSI Station constructed or operating at This Building Site in the time frame of the owner's records dating back to 1986.
2. There is currently no MCLM Station constructed or operating at This Building Site. There has never been a MCLM Station constructed or operating at This Building Site in the time frame of the owner's records as stated above.
3. There are currently no 217/219 MHz stations or licensee constructed or operating at This Building Site. There has never been a 217/219 MHz station or license constructed or operating at This Building Site in the time frame of the owner's records as stated above.

The foregoing is accurate to the best of my knowledge.

If there are any questions regarding this matter please contact me.

Sincerely,



Peter J. Kovaleski  
President

**FEDERAL COMMUNICATIONS COMMISSION**

1270 Fairfield Road  
Gettysburg, PA 17325-7245  
Telephone (717) 338-2646  
Facsimile (717) 338-2696

SEP 13 2004

**In Reply Refer To:**  
PS&CID-666

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

S. Cooper  
Paging Systems, Inc.  
PO Box 4249  
Burlingame, CA 94011-4249

**WARNING:** This letter requires a timely response. You must respond to this letter within thirty (30) calendar days from the above date.

Dear Licensee:

In connection with the auction of unassigned Automated Maritime Telecommunications System (AMTS) spectrum, *see* Automated Maritime Telecommunications System Spectrum Auction Scheduled for September 15, 2004, *Public Notice*, 19 FCC Rod 6274 (WTB 2004), the Federal Communications Commission's Wireless Telecommunications Bureau is reviewing the information in its licensing database regarding the construction status of licensed AMTS stations. The Commission's Rules require construction with a specified time frame (*see* Section 80.49 of the Commission's Rules, 47 C.F.R. § 80.49) in order for the license to remain valid. Specifically, when a licensee fails to construct its authorized facilities within the requisite construction period, the station license cancels automatically.


In reviewing construction information previously submitted for certain AMTS facilities for which you hold a license, we find that you provided estimated future dates for activation and/or to begin initial tests to commence service, rather than notification that construction had been completed by a certain date. We now seek to confirm the actual construction completion dates. We are writing this letter to offer you the opportunity to supplement the information on file concerning the construction status of these stations. For your convenience, the call signs, location numbers, and site names in question are listed in an attachment to this letter. Please review the stations/locations listed under each call sign and provide the actual construction completion date for each site. If the site has not been constructed, please so indicate in your response.



If you are not sure which authorized sites are in question, you may find this information via the Internet using the Universal Licensing System (ULS) at <http://wireless.fcc.gov/uls>. Please do not use your response to this inquiry to modify a license in any way.

You can reply to this inquiry by faxing your response to Kim Kleppinger at 717-338-2696 or by mail to Kim Kleppinger, WTB, PS&CID, 1270 Fairfield Road, Gettysburg, PA 17325. An authorized person of your company must certify to the accuracy of all responses by signing the form.

Sincerely,

  
fn Tracy Simmons  
Associate Chief, Licensing Operations  
Public Safety and Critical Infrastructure Division

Attachment

Paging Systems, Inc.

I hereby certify that all statements/responses in this document are true, correct and made in good faith and that I am duly authorized to sign for the licensee in this matter.

Signature \_\_\_\_\_

Printed Name \_\_\_\_\_

Date \_\_\_\_\_

Directions:

For each call sign/location number, enter the date when construction was completed. If the site has not been constructed, please enter "NO" in the construction date column.

Call Sign	Location Number/Site Name	Construction Completion Date
WHW244	1 Eureka CA	
WHX281	1 Santa Barbara CA	
WHW296	1 Portland OR	
WRV516	1 Eugene OR	
WHX782	1 Los Angeles CA	
WHW830	1 Gold Mountain WA	
KEB295	1 Corona CA	
KCE394	1 Vacaville CA	
WHG660	1 La Crescenta CA	
WHD866	1 Oakland CA	
WHU327	1 Ventura CA	
WHU559	1 Orcas Island WA	
WHU919	1 San Diego CA	
KZV690	1 Coos Bay OR	

WQA207	1 Miami FL	
WQA211	1 New Bern NC	
WQA212	1 Suffolk VA	
WQA216	1 New York NY	
WQA220	1 Oak Hill FL	
WQA221	1 Rehobeth MA	
WQA222	1 Spaulding FL	
WQA227	1 Raymond ME	
WXY985	1 St. Petersburg FL	
WHW826	1 Baltimore MD	
KYW912	1 Boston MA	
KBP347	7 Chicago IL	
	8 Port Washington WI	
	9 Sturgeon Bay WI	
	12 Whitehall MI	
	13 Port Huron MI	
	14 Detroit MI	
KSC779	5 Buffalo NY	
	6 Pleasant Hill PA	
	7 Lakewood OH	
	8 Toledo OH	

# HALL ESTILL

ATTORNEYS AT LAW

Audrey P. Rasmussen  
Direct Dial: (202) 973-1210  
Facsimile: (202) 973-1212  
arasmussen@hallestill.com

October 11, 2004

VIA FACSIMILE (717) 338-2696

Ms. Kim Kleppinger  
Wireless Telecommunications Bureau  
Federal Communications Commission  
1120 Fairfield Road  
Germansburg, PA 17325

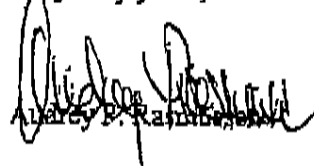
Re: PS&CID-666, FCC Letter dated  
September 13, 2004, Paging Systems, Inc.

Dear Kim:

Enclosed please find the response of Paging Systems, Inc. to FCC Letter PS&CID-666, dated September 13, 2004. Pursuant to instructions in that letter, we are faxing our response to you.

If you have any questions at all in connection with this response, please contact me.

Very truly yours,



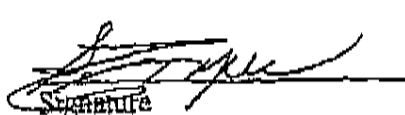
Audrey P. Rasmussen

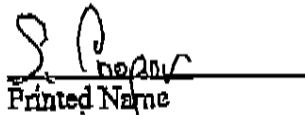
APR:glh  
Enclosure

52145.1:710113:00600

Paging Systems, Inc.

I hereby certify that all statements/responses in this document are true, correct and made in good faith and that I am duly authorized to sign for the licensee in this matter.

  
Signature

  
Printed Name

Oct 7, 04  
Date

Directions:

For each call sign/location number, enter the date when construction was completed. If the site has not been constructed, please enter "NO" in the construction date column.

Call Sign	Location Number/Site Name	Construction Completion Date
WHW244	1 Eureka CA	1-28-1995
WHX281	1 Santa Barbara CA	1-28-1995
WHW296	1 Portland OR	1-28-1995
WRV516	1 Eugene OR	1-28-1995
WHX782	1 Los Angeles CA	7-8-1994
WHW830	1 Gold Mountain WA	1-28-1995
KEB295	1 Corona CA	1-28-1995
KCB394	1 Vacaville CA	1-28-1995
WHG660	1 La Crescenta CA	8-19-1997
WHD866	1 Oakland CA	5-26-1997
WHU327	1 Ventura CA	8-19-1997
WHU559	1 Orcas Island WA	9-14-1998
WHU919	1 San Diego CA	3-6-1998
KZV690	1 Coos Bay OR	10-29-1999

WQA207	1 Miami FL	8-19-1997
WQA211	1 New Bern NC	5-21-1998
WQA212	1 Suffolk VA	5-21-1998
WQA216	1 New York NY	1-6-1998
WQA220	1 Oak Hill FL	2-23-1998
WQA221	1 Rehobeth MA	5-21-1998
WQA222	1 Spaulding FL	5-21-1998
WQA227	1 Raymond ME	5-21-1998
WXY985	1 St. Petersburg FL	4-14-2000
WHW826	1 Baltimore MD	7-6-2000
KYW912	1 Boston MA	7-1-1999
KBP347	7 Chicago IL	8-10-2001
	8 Port Washington WI	8-10-2001
	9 Sturgeon Bay WI	8-10-2001
	12 Whitehall MI	8-10-2001
	13 Port Huron MI	8-10-2001
	14 Detroit MI	8-10-2001
KSC779	5 Buffalo NY	8-10-2001
	6 Pleasant Hill PA	8-10-2001
	7 Lakewood OH	8-10-2001
	8 Toledo OH	8-10-2001

### Certificate of Service

I, Warren Havens, certify that on this 7<sup>th</sup> day of September 2012, I caused to be served by placing into the USPS mail system with first- class postage affixed, unless otherwise noted, a copy of the foregoing Section 1.41 Request, including attachments and exhibits, to the following:<sup>1</sup>

Audrey P Rasmussen  
Hall, Estill, Hardwick  
1120 20th Street, N.W., Suite 700 North  
Washington, DC 20036  
Counsel of Paging Systems, Inc. (PSI)

Robert J. Keller  
Law Offices of Robert J. Keller, P.C.  
P.O. Box 33428  
Washington, DC 20033  
Counsel of record of MCLM Debtor in Possession (“DIP”)

*/s/ Warren Havens [Submitted Electronically. Signature on File]*

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Warren Havens

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<sup>1</sup> The mailed copy being placed into a USPS drop-box today may be after business hours and therefore may not be processed by the USPS until the next business day.

**Chris Christie**, Governor  
**Kim Guadagno**, Lieutenant Governor  
**James S. Simpson**, Board Chairman  
**James Weinstein**, Executive Director

**NJ TRANSIT**  
One Penn Plaza East  
Newark, NJ 07105-2246  
973-491-7000

Mr. Richard Arsenault  
General Counsel Wireless Telecommunications  
Bureau of Wireless Telecommunications  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

25 July 2012

**SUBJECT –Procurement of 220 MHz Radio-Frequency Spectrum for Positive Train Control**

Dear Mr. Arsenault:

NJ TRANSIT is the State of New Jersey's public transportation agency and operates bus, light rail, and commuter rail services within the State of New Jersey. Some operations extend into the State of New York and the Commonwealth of Pennsylvania.

The Rail Safety Improvement Act of 2008 (RSIA) requires the implementation of train control systems to provide Positive Train Control (PTC) with additional capabilities such as prevention of certain types of rail collision events, more protection for roadway workers, a Crash-Hardened Event Recorder, and interoperability with Amtrak and other freight and passenger railroads.

The FCC has advised rail operating agencies seeking 220 MHz Radio Frequency (R-F) Spectrum for Positive Train Control (required by Federal regulations) to pursue sources on the commercial market. In addition, the FCC suggested that those seeking R-F Spectrum should inform the FCC of difficulties or issues arising from efforts to obtain 220 MHz R-F Spectrum on the open market. In response to that guidance NJ TRANSIT herein is summarizing its 220 MHz R-F Spectrum procurement and the bids which, to date, are unresponsive. This bid process has left NJ TRANSIT likely unable to procure the necessary 220 MHz spectrum required to support the PTC program.

We have found that the market for this segment of the Spectrum is influenced by the small number of licensees who possess transmission rights in the geographic area where it is needed. Competition in availability and pricing is therefore quite limited because NJ TRANSIT can only acquire this unique "electronic real estate" from an entity that presently holds the license in the specific locations that serve NJ TRANSIT rail corridors.

NJ TRANSIT requests that the FCC step in and provide the necessary 220 MHz spectrum to support the PTC program.

NJ TRANSIT's actions to identify and acquire R-F Spectrum are described below.



BACKGROUND:

The FRA requires that NJ TRANSIT implement Positive Train Control (PTC) on all of its commuter rail lines as well as be interoperable with Amtrak, Metro-North Railroad, and freight operators, by the statutory deadline of December 31, 2015. The acquisition of 220 MHz Radio-Frequency Spectrum is essential to interoperable PTC radio communications among railroads, and thereby fulfilling these regulatory requirements.

Consequently, NJ TRANSIT is compelled to acquire this specialized portion of the Radio-Frequency Spectrum for its PTC system. Similarly, every commuter rail, intercity rail and freight railroad operator requires R-F Spectrum for their respective PTC systems. In all cases the use and allocation of R-F Spectrum occurs under the auspices of the FCC.

PROCUREMENT ACTION TO ACQUIRE 220 MHz RADIO-FREQUENCY SPECTRUM (April 2011 to Present):

- 1) To identify sources and prospective offerors an "Expression of Interest" (EOI) for PTC 220 MHz R-F Spectrum was advertised on 3 April 2011. Five current 220 MHz R-F Spectrum license holders responded:
  - Maritime Communications / Land Mobile LLC (MC/LM)
  - Intelligent Transportation & Monitoring Wireless LLC/Environmental LLC/Skybridge Spectrum Foundation ("SkyTel")
  - Americom Network, Inc.
  - GEO Command, Inc.
  - Southeastern Pennsylvania Transportation Authority (SEPTA),

Another license-holder of R-F Spectrum, PTC 220, LLC was also sent the EOI and they chose not to respond.

- 2) Invitation for Bid (IFB) 12-028 was publicly advertised on 23 February 12. A two-step bid process was adopted, Step 1 was to seek existing license holders who could offer the specified R-F Spectrum and provide evidence of compliance with NJ TRANSIT requirements; and then for Step 2, invite "qualified" respondents to submit price proposals. At this point, NJ TRANSIT is still attempting to complete "Step 1", to confirm whether or not respondents can be approved for Step 2.

The IFB was also sent directly to all of the entities listed above. (Additionally, the IFB was sent to PTC 220, LLC; however, this entity informed NJ TRANSIT that it was declining to bid.

3) The following firms responded by the deadline 25 March 12:

- Maritime Communications / Land Mobile LLC (MC/LM)
- Intelligent Transportation & Monitoring Wireless LLC/Environmental LLC/Skybridge Spectrum Foundation ("SkyTel")

4) NJ TRANSIT then evaluated the two Proposals, which claim to possess the specified frequency spectrum. However, the result was unclear to NJ TRANSIT whether either entity has legal authority to transfer the licenses; and furthermore that any subsequent NJ TRANSIT use of those licenses will not interfere or conflict with the transmission rights of the other party (who possesses the "non-acquired " licenses).

These two current licensees are in a spectrum conflict, each claiming that the other has violated FCC rules and should have their licenses revoked. A recent FCC action against Skybridge shows that the FCC may not be accepting the waiver of construction. MCLM is currently a Debtor-in-Possession and has a complaint by Skybridge to the FCC that MCLM is unfit to be a license holder. So even if the technical elements of the responses are acceptable to NJ TRANSIT, the legal implications of the resolution of their cases may have negative implications for acquisition and subsequent use of the frequencies and channels. Compounding the uncertainty, NJ TRANSIT has no ability to ascertain the length of time required for resolution of the legal proceedings between the two parties, nor the potential effects on current license-holder transfer rights.

NJ TRANSIT's EVALUATION and AWARD DILEMMA:

Simply, our current technical analysis of these two proposals is cannot address the legal and practical implications of these complex offerings due to their conflicting content, and qualifying and limiting legal statements that pervade their submissions. NJ TRANSIT's reviewers emphasized that legal clarification of "FCC issues" was required to determine the validity of either offer. Therefore without some subsequent clarification from an "FCC legal perspective" neither bidder can be invited to proceed to Step 2 – the bid price submission. As a result the award process cannot be advanced to completion.

REQUEST FOR ASSISTANCE:

To determine that either one or both offers are viable, NJ TRANSIT needs assurance that any legal settlement between the two parties will not impact NJ TRANSIT's acquisition or approved use of the 220 MHz R-F Spectrum, and that each party has proper FCC authority to transfer those rights to another user. As our outside counsel has stated:

“It is possible that NJ TRANSIT could have found itself in a more convoluted, contested spectrum band, but I would be hard-pressed to think of one. The bottom line is that both proposals involve significant risk factors. The risks are not related to the FCC’s technical requirements but to a very complex spectrum landscape and the decade-long dispute between the parties related to this spectrum.”

NJ TRANSIT was encouraged to provide this information by the FCC. We would appreciate the opportunity to discuss this situation with respect to 220 MHz R-F Spectrum with the FCC. Perhaps the FCC could enlighten NJ TRANSIT regarding the availability of 220 MHz R-F Spectrum from the two responding entities or suggest an approach that would enable NJ TRANSIT to progress this federally-mandated acquisition.

NJ TRANSIT looks forward to hearing from you at your earliest convenience. I can be contacted at 973.491.8530 or pstangas@njtransit.com.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul K. Stangas", with a long horizontal line extending to the right.

Paul K. Stangas

Director, Systems Engineering & Design

CC:

Ty Dickerson

J. Batey IV

T. Olivieri

K. Worton, DAG

APTA

Amtrak

Metro North Railroad

Long Island Rail Road

Federal Railroad Administration



Federal Communications Commission  
Washington, D.C. 20554

July 30, 2012

BY CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Paging Systems, Inc.  
Attn: Susan Cooper  
P.O. Box 4249  
Burlingame, CA 94011-4249

RE: Automated Maritime Telecommunications System Station WQA216

Dear Ms. Cooper:

PSI has represented to the Commission on a number of occasions that it timely constructed and operated the above-referenced station (the Station) at the World Trade Center (WTC) prior to its destruction on September 11, 2001. The most direct evidence that PSI has submitted in this regard is a 2007 declaration in which the declarant states that PSI's construction and operational claims are true to the best of his knowledge and belief, but does not assert first-hand knowledge of the construction and operation of PSI's WTC facility.

Pursuant to Section 308(b) of the Communications Act of 1934, as amended,<sup>1</sup> you are directed to provide the information requested below. Please correspond your answers to the numbers relating to each question.

Construction

1. Provide copies of all related to the purchase and/or lease of transmitter space for the Station at WTC.
2. Provide copies of all documents related to the purchase and/or lease of antenna space for the Station at WTC.
3. Provide copies of all documents related to transporting equipment for the Station to WTC.
4. Provide copies of all documents related to installation of equipment for the Station at WTC.
5. Identify the make, model, and serial number of each piece of equipment for the Station at WTC.

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<sup>1</sup> 47 U.S.C. § 308(b).

6. State whether PSI used its own personnel to install equipment for and otherwise construct the Station at WTC.
  - i. If so, identify all such individuals who were involved in such installation and/or construction.
  - ii. If not, identify all entities and/or individuals hired or otherwise retained by PSI to install equipment for and otherwise construct the Station at WTC.
7. Provide copies of all correspondence, agreements, contracts, and understandings with the Port Authority of New York & New Jersey related to locating the Station at WTC.
8. Provide copies of all correspondence, agreements, contracts, and understandings with FCC licensees related to locating the Station at WTC.

Operation

9. Provide copies of all documents sufficient to demonstrate the date on which construction of the Station at WTC was completed.
10. Provide copies of all documents related to testing of equipment for the Station at WTC.
11. Provide copies of all documents sufficient to demonstrate the date on which the Station became operational at WTC.
12. Provide copies of all documents sufficient to demonstrate the date on which the Station commenced operating at WTC.
13. Provide copies of all documents sufficient to identify customers served by the Station at WTC.
14. Provide copies of all documents related to maintenance of equipment for the Station at WTC.
15. Provide copies of all documents related to inspections of the Station at WTC by any entity or person.
16. Between the beginning of the operation of the Station at WTC and September 11, 2001, was there any period of one year or longer in which the Station at WTC did not operate, *i.e.*, neither transmitted nor received any communication? If so, provide the dates during which time operation was discontinued.

You may submit any additional information that you believe is relevant to this matter. The information you submit in response to this letter will be used to determine what action will

Susan Cooper

be taken by the Commission with respect to pending applications regarding the Station. Failure to file a complete and timely response may result in the imposition of administrative sanctions.

Please send the requested information within thirty days of this letter to Federal Communications Commission, Wireless Telecommunication Bureau, Mobility Division, 445 12<sup>th</sup> Street, S.W., Washington, D.C. 20554, Attention: Stana Kimball. If you have any questions relating to this matter, please contact Stana Kimball at (202) 418-1306 or [stanislava.kimball@fcc.gov](mailto:stanislava.kimball@fcc.gov).

You are advised that 18 U.S.C. § 1001 and 47 C.F.R. § 1.17 prohibit misrepresentations and/or willful omissions of material facts in response to Commission inquiries.

Sincerely,

Scot Stone  
Deputy Chief, Mobility Division  
Wireless Telecommunications Bureau

Cc: Audrey P. Rasmussen  
David L. Hill  
Hall, Estill, Hardwick, Gable, Golden & Nelson, P.C.  
1120 20<sup>th</sup> Street, N.W.  
Suite 700 North Building  
Washington, D.C. 20036

Warren Havens  
2509 Stuart Street  
Berkeley, CA 94705

Jack Richards  
Keller & Heckman LLP  
1001 G Street, N.W.  
Suite 500 West  
Washington, D.C. 20001

**Certificate of Service**

I, Warren Havens, certify that on this 10<sup>th</sup> day of October 2012, I caused to be served by placing into the USPS mail system with first- class postage affixed, unless otherwise noted, a copy of the foregoing filing, including attachments and exhibits, to the following:<sup>1</sup>

Audrey P Rasmussen  
Hall, Estill, Hardwick  
1120 20th Street, N.W., Suite 700 North  
Washington, DC 20036  
Counsel of Paging Systems, Inc. (PSI)

Robert J. Keller  
Law Offices of Robert J. Keller, P.C.  
P.O. Box 33428  
Washington, DC 20033  
Counsel of record of MCLM Debtor in Possession (“DIP”)

*/s/ Warren Havens [Submitted Electronically. Signature on File]*

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Warren Havens

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<sup>1</sup> The mailed copy being placed into a USPS drop-box today may be after business hours and therefore may not be processed by the USPS until the next business day.